

OPEN MEETING ITEM
ORIGINAL

COMMISSIONERS
JEFF HATCH-MILLER - Chairman
WILLIAM A. MUNDELL
MARC SPITZER
MIKE GLEASON
KRISTIN K. MAYES



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ARIZONA CORPORATION COMMISSION

DATE: August 12, 2005

DOCKET NO: W-01445A-04-0729

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Jane Rodda. The recommendation has been filed in the form of an Opinion and Order on:

ARIZONA WATER COMPANY

(CC&N EXTENSION)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

AUGUST 22, 2005

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

SEPTEMBER 7 AND 8, 2005

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For more information about the Open Meeting, contact the Executive Secretary's Office at (602) 542-3931.

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A handwritten signature in black ink, appearing to read "Brian C. McNeil".
BRIAN C. McNEIL
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **COMMISSIONERS**

3 JEFF HATCH-MILLER, Chairman
4 WILLIAM A. MUNDELL
5 MARC SPITZER
6 MIKE GLEASON
7 KRISTIN K. MAYES

8 IN THE MATTER OF THE APPLICATION OF
9 ARIZONA WATER COMPANY FOR AN
10 EXTENSION OF ITS CERTIFICATE OF
11 CONVENIENCE AND NECESSITY AT ORACLE,
12 PINAL COUNTY, ARIZONA.

DOCKET NO. W-01445A-04-0729

DECISION NO. _____

13 **OPINION AND ORDER**

14 DATE OF HEARING:

July 7, 2005

15 PLACE OF HEARING:

Tucson, Arizona

16 ADMINISTRATIVE LAW JUDGE:

Jane L. Rodda

17 APPEARANCES:

Mr. Robert W. Geake, on behalf of
Arizona Water Company; and

Mr. Timothy Sabo, Staff Attorney, Legal
Division, on behalf of the Utilities
Division of the Arizona Corporation
Commission.

18 **BY THE COMMISSION:**

19 * * * * *

20 Having considered the entire record herein and being fully advised in the premises, the
21 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

22 **FINDINGS OF FACT**

23 1. On October 5, 2004, Arizona Water Company ("AWC") filed with the Arizona
24 Corporation Commission ("Commission") an Application for an Extension of its Certificate of
25 Convenience and Necessity ("CCN" or "Certificate") for its Oracle system in Pinal County.

26 2. On November 12, 2004, Commission Utilities Division Staff ("Staff") notified AWC
27 that the application was insufficient pursuant to the requirements of the Arizona Administrative
28 Code.

3. On April 20, 2005, Staff docketed a letter that notified AWC that the application was

1 deemed sufficient.

2 4. By Procedural Order dated April 28, 2005, the matter was set for hearing in Tucson,
3 Arizona, and procedural guidelines and deadlines were established.

4 5. As required by the Procedural Order, AWC mailed notice of the hearing to each of the
5 property owners in the extension area on May 26, 2005, and had the notice published in the *Arizona*
6 *Daily Star* on May 6, 2005.

7 6. On May 18, 2005, Staff filed its Staff Report, recommending approval of the
8 Application.

9 7. The hearing convened as scheduled on July 7, 2005, at the Commission's Tucson
10 offices.

11 8. AWC is an Arizona corporation authorized by the Commission to provide water
12 service within portions of Gila, Navajo, Cochise, Maricopa, Pima, Yavapai, Coconino and Pinal
13 counties. The Company currently serves approximately 73,000 customers in Arizona.

14 9. AWC's Oracle system currently serves approximately 1,465 connections.

15 10. The Company seeks to expand its CC&N to include an additional approximate 1,300
16 acres contiguous to its existing Oracle service area. The legal description of the proposed extension
17 area is attached hereto as Exhibit A, and incorporated herein by reference. The proposed extension
18 area consists of approximately 700 acres owned by Oracle Highlands, LLC, which intends to develop
19 260 custom home sites (known as the "Rancho Coronado development or developer"), and
20 approximately 600 acres owned by the State Land Department. The Rancho Coronado developer
21 requested water service from AWC and needs to be included within AWC's CC&N to obtain its
22 Certificate of Assured Water Supply. The State Land Department has communicated with the
23 Company and expressed its desire to have its land included within the CC&N as well.

24 11. There are no other certificated water providers in the area situated to extend service to
25 the proposed extension area.

26 12. Based on information provided by the Rancho Coronado developer, AWC expects 75
27 additional customers in the extension area during the initial five years after approval of the request.

28 13. AWC's Oracle system has three wells producing 1,140 gallons per minute, and 1.6

1 million gallons of storage capacity. Staff determined that the existing production and storage
2 capacity can serve approximately 4,300 connections. Staff concludes that the existing system has
3 adequate production and storage capacity to serve the existing and proposed expansion areas within
4 the next five years.

5 14. AWC expects to serve the extension area through a combination of 12, 8 and 6 inch
6 mains from the existing Oracle water storage tank and a planned new 150,000 gallon storage tank,
7 and estimates the total cost of required facilities to be \$2.3 million. AWC will finance the required
8 facilities primarily with Advances in Aid of Construction.¹

9 15. A main extension agreement has not been finalized between AWC and the property
10 owners.

11 16. Once the parties have finalized a main extension agreement, Staff recommends it be
12 filed with the Commission for Staff's review consistent with Arizona Administrative Code R14-2-
13 406.

14 17. The Arizona Department of Environmental Quality ("ADEQ") has determined that
15 AWC's Oracle system is currently delivering water that meets the water quality standards required by
16 the Arizona Administrative Code, Title 18, Chapter 4.

17 18. AWC has not submitted the ADEQ Certificate of Approval to Construct ("ATC") for
18 facilities needed to serve the requested area.

19 19. Staff recommends that AWC file a copy of the ATC within one year of the effective
20 date of this Decision.

21 20. The U. S. Environmental Protection Agency ("EPA") has reduced the arsenic
22 maximum contaminant level ("MCL") in drinking water from 50 parts per billion ("ppb") to 10 ppb.
23 The date for compliance with the new MCL is January 23, 2006.

24 21. The most recent lab analysis provided by the Company indicates that the Oracle
25

26 ¹ Advances in Aid of Construction are often in the form of main extension agreements. Main extension agreements
27 generally require the developer to design, construct and install (or cause to be installed), all facilities to provide adequate
28 service to the development. The developer is required to pay all costs of constructing the required facilities necessary to
serve the development. Upon acceptance of the facilities by the utility the developer may convey the water facilities by
way of a warranty deed or bill of sale. The utility will often refund ten (10) percent of the annual water revenue
associated with development for a period of ten (10) years.

1 system wells are producing water that will comply with the new arsenic MCL.

2 22. AWC's Oracle system is within the Arizona Department of Water Resources
3 ("ADWR") Tucson Active Management Area and is in compliance with ADWR's reporting and
4 conservation rules.

5 23. Staff recommends that AWC be ordered to file a copy of the developer's Certificate of
6 Assured Water Supply ("CAWS"), where applicable or when required by statute within 365 days of
7 any decision in this Matter.

8 24. AWC has an approved curtailment tariff for "all Service Areas" that became effective
9 on July 23, 2004 per Decision No. 66235.

10 25. The Commission's Utilities Division, Compliance Section, shows no outstanding
11 compliance issues for the Company.

12 26. AWC has the necessary Pinal County franchise for the extension area.

13 27. AWC is current with all its property and sales taxes.

14 28. Staff further recommends that AWC charge its existing rates and charges in the
15 proposed extension area and that this CC&N extension be considered null and void without further
16 order from the Commission should AWC fail to meet its recommendations concerning filing the
17 CAWS and ATC within the time specified.

18 **CONCLUSIONS OF LAW**

19 1. AWC is a public service corporation within the meaning of Article XV of the Arizona
20 Constitution and A.R.S. §§ 40-281 and 40-282.

21 2. The Commission has jurisdiction over AWC and the subject matter of the application.

22 3. Notice of the application was provided in accordance with law.

23 4. There is a public need and necessity for water service in the proposed extension area
24 set forth in Exhibit A.

25 5. AWC is a fit and proper entity to receive a CC&N to provide water service in the
26 proposed extension area.

27 6. Staff's recommendations contained in Findings of Fact Nos. 16, 19, 23 and 28 are
28 reasonable and should be adopted.

ORDER

IT IS THEREFORE ORDERED that the application of Arizona Water Company for an extension of its Certificate of Convenience and Necessity for its Oracle system to provide water service to the area described in Exhibit A hereto, is approved.

IT IS FURTHER ORDERED that Arizona Water Company shall charge its existing rates and charges within the approved extension area.

IT IS FURTHER ORDERED that Arizona Water Company shall file a copy of the developer's Approval to Construct for the facilities required to serve the Rancho Coronado development portion of the extension area and a copy of the Rancho Coronado developer's Certificate of Assured Water Supply within 365 days of the effective date of this Decision.

IT IS FURTHER ORDERED that failure to meet the deadlines specified herein shall cause the grant of a Certificate of Convenience and Necessity for the extension area to be considered null and void without further order from the Commission.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this ____ day of _____, 2005.

BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT _____

DISSENT _____

1 SERVICE LIST FOR: ARIZONA WATER COMPANY

2 DOCKET NO.: W-01445A-04-0729

3
4 Robert W. Geake
5 Vice President and General Counsel
6 Arizona Water Company
7 Post Office Box 29006
8 Phoenix, Arizona 85038

9 Mr. Christopher Kempsey, Chief Counsel
10 Legal Division
11 ARIZONA CORPORATION COMMISSION
12 1200 West Washington Street
13 Phoenix, Arizona 85007

14 Mr. Ernest Johnson, Director
15 Utilities Division
16 ARIZONA CORPORATION COMMISSION
17 1200 West Washington Street
18 Phoenix, Arizona 85007

EXHIBIT A

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2 The North half of Section 3, the north half of Section 4 in Township 10 South, Range 15 East of the
3 Gila and salt River Base and Meridian, Pinal County, Arizona; and

3

4 All of Section 2, Township 10 South, Range 15 East of the Gila and Salt River Base and meridian,
5 Pinal County, Arizona, EXCEPT the West 2,310 feet of the North half of the Northwest quarter of
6 said Section 2.

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